

### **REMARKS/ARGUMENTS**

As described below, Claims 1, 16, and 23 have been amended to further clarify the invention. Specifically, Claim 1, 16, and 23 have been amended to recite that the ballistic layer has a honeycomb structure.

Claims 1-6, 8, 13, and 16-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of US Patent No. 6,187,411 to Palmer and U.S. Patent No. 6,500,507 to Fisher. Claims 10 – 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Palmer, Fisher, and U.S. Patent No. 3,381,420 to Brink et al.

As noted in Applicants' previous response, Fisher is directed to a blast or impact resistant material wherein a flexible fabric layer is disposed underneath a layer of impact resistant tiles. Fisher repeatedly stresses that the fabric layer is "non-ballistic". For example, at column 4, lines 37-39 Fisher states that "[s]uitable materials for the flexible material layer 4 include any material having the properties of high resistance to local deformation, but by itself having non-ballistic properties." Additionally, the flexible fabric layer of Fisher is not an outer layer, but rather, is disposed opposite the impact resistance tile. As a result, the fabric layer in Fisher does not provide impact resistance to the composite.

Palmer describes a panel having an improved tolerance for damage caused by impacts from a foreign object. The panels described in Palmer have a foam core that is sandwiched between a pair of skins comprising a fibrous material, such as glass, boron, carbon, Kevlar, etc. Stitching is used to attach the skins to the core. Palmer describes a foam core that is preferably non-porous and that is relatively non-compressible.

To further clarify the claimed invention, Claims 1, 16, and 23 have been amended to include the recitation that the first fabric layer comprises a ballistic resistant material having a honeycomb cross section. Support for this amendment is found on at least pages 7 and 10 of the specification. A laminate having an outer fabric layer that is ballistic resistant and that has a honeycomb cross section is neither disclosed nor suggested by cited references, taken individually or in combination.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: 1) the reference(s) must teach or suggest all the claim limitations 2) there must be some

suggestion to modify the references; and 3) there must be some reasonable expectation of success. The Office has failed to establish a *prima facie* case of obviousness because the Examiner has failed to establish any of the above criteria. Therefore the rejections should be withdrawn.

First, the combination of the Fisher and Palmer references fails to disclose each and every limitation of independent Claims 1, 16, and 23. In particular, all of the independent claims call for a ballistic layer having a honeycomb cross-section. Palmer and Fisher do not teach or describe a ballistic fabric having a honeycomb cross-section. Instead, Fisher specifically states that the fabric is non-ballistic. Thus, the combination of Fisher and Palmer fails to disclose or suggest an impact resistant laminate having a ballistic layer with a honeycomb cross-section. Brink also fails to disclose or suggest an impact resistant laminate having a ballistic layer with a honeycomb cross-section.

Establishing a *prime facie* case of obviousness based upon a combination of reference teachings also requires there to be some suggestion or motivation for the proposed combination or modification of reference teachings. The rejections fail this requirement in several respects.

There is no motivation to combine the fabric layer described in Fisher with the panel described in Palmer. Fisher states that the fabric layer can have a variety of structures including a honeycomb structure. However, there is no disclosure or suggestion in Fisher that the honeycomb structure provides any benefit, let-alone impact absorbance. The Examiner alleges motivation is found because "a honeycomb layer in an impact resistant laminate would spread the impact load and reduce blunt trauma-causing deformation." The Examiner provides no support for this assertion. The only possible support for such an assertion comes from Applicants' own teachings. This is impermissible hindsight. Accordingly, there is no suggestion in Fisher that would motivate one of ordinary skill in the art to select the honeycombed fabric layer of Fisher in the outer skin of Palmer.

Further, the references should not be combined because Fisher clearly teaches away from such a combination. Fisher repeatedly emphasizes that the fabric layer described in Fisher lacks the desired impact resistance and, in fact, Fisher specifically describes the fabric layer as non-ballistic. Additionally, the fabric layer in Fisher is not an impact absorbing surface and is actually disposed below a layer of impact absorbing tiles. As a result, one of ordinary skill

would not be motivated to use the fabric layer described in Fisher in an impact absorbing skin because such a “non-ballistic” outer skin would not have the desired impact absorbing properties.

In rejecting a claim under 103, it is improper to pick and choose among the individual elements of assorted prior art references to recreate the claimed invention. Here, the Examiner has merely identified isolated elements from the references and pointed out that all three references describe insulating laminates. What is missing is an explanation, supported by objective evidence of why one of ordinary skill in the art would be motivated to combine the honeycomb cross-section fabric described in Fisher with the panel described in Palmer, while ignoring the express teachings in the Fisher that the fabric is non-ballistic. Additionally, even if there was no teaching in Fisher that the honeycomb layer was non-ballistic, the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. As noted above, there is no support in the references for such a suggestion.

Moreover, modifying Palmer as suggested by the Examiner would render the panel described in Palmer unsatisfactory for its intended purpose. As discussed above, Palmer is directed to an impact absorbing panel wherein the outer skins are configured to receive impacts from foreign objects. In sharp contrast, the fabric layer described in Fisher is “non-ballistic” and is not configured to provide impact resistance. As a result, the fabric layer described in Fisher would not impart the desired impact absorbing properties to the panel of Palmer.

Because there is no teaching or motivation, within the references or the art, to combine the disclosure of Palmer with that of Fisher, with or without the teachings of Brink, and even as combined the references fail to teach the claimed invention, the Office has failed to establish a *prima facie* case of obviousness and the pending rejections under 35 U.S.C. §103 should be withdrawn.

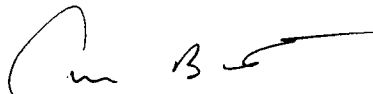
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### **Conclusion**

In view of the amendments and remarks made above, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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